

# Notice of Allowability

Application No.

10/743,805

Examiner

Jermie Cozart

Applicant(s)

MALAKA, MARK D.

Art Unit

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 12/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **EXAMINER'S AMENDMENT**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14, drawn to a riveting tool, classified in class 29, subclass 798.
  - II. Claims 15-19, drawn to a method of heading staking a rivet to secure together two workpieces, classified in class 29, subclass 505.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be used in another and materially different process which does not require positioning the workpieces substantially in juxtaposition with the rivet openings of each workpiece being substantially aligned.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Gary Travis on November 15, 2005, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-18 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gary Travis on December 12, 2005.

The application has been amended as follows:

In the title,

"Riveting Tool and Method for Its Use" has been changed to - Riveting Tool- .

In the specification,

**Page 16,** *Line 19, "46" has been changed to - 40- .*

**Page 17,** *Line 21, "81" has been changed to - 31- ;*

*Line 26, "12a, 12" has been changed to - 12a, 12b- .*

In the claims,

**Claim 1,** *Line 3, "comprising," has been changed to - comprising:- .*

**Claim 3,** *Line 3, "riveting" has been changed to - riveter- .*

**Claim 9,** *Line 5, "comprising," has been changed to - comprising:- .*

**Claim 10,** *Line 2, "the workpiece component" has been changed to  
- a workpiece- .*

Non-elected **claims 15-19** have been canceled.

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6. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: Reference numeral 72 will be added to the drawings. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

7. The following is an examiner's statement of reasons for allowance: Regarding **claim 1**, the prior art does not teach or suggest a riveter die slidably disposed in the bore, the riveter die extending axially from a forward end spaced proximate the rivet to a rearward end remote therefrom and including, a secondary bore extending longitudinally substantially through the riveter die from the rearward end, the secondary bore having a lateral cross-sectional profile generally corresponding to that of the rivet shaft, a head cavity formed in the forward end, the secondary bore being open into a rearward portion of the cavity, the head cavity having a shape generally corresponding to a shape of a preferred formed rivet head and having a size selected such that upon initial engagement of the riveter die with the rivet at least a portion of the rivet shaft locates within the secondary bore so as to be partially constrained against lateral deformation thereby, in combination with the other claimed limitation; Regarding **claim 9**, the prior art does not teach or suggest a riveter die slidably disposed in the bore, the riveter die extending axially from a forward end for positioning spaced proximate the workpieces to a rearward end remote therefrom and including, a cylindrical secondary bore extending longitudinally through the riveter die from the forward end to the rearward end, the secondary bore having a lateral cross-sectional profile generally corresponding to that of the rivet shaft, a head cavity formed in the forward end, the secondary bore being

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open into a rearward portion of the head cavity, the head cavity having a shape generally corresponding to a shape of a preferred formed rivet head and having a size selected such that upon initial engagement of the riveter die with the rivet, the projecting end of the rivet shaft locates at least partially within the secondary bore so as to be at least partially constrained against lateral deformation thereby and at least partially in the head cavity, in combination with the other claimed limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez can be reached on 571-272-4530. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**David P. Bryant**  
**Primary Examiner**



JC

December 12, 2005